

REMARKS

I. Introduction

This amendment is filed in response to the Final Office Action January 29, 2004 for the above-identified patent application. Claims 1-8 and 10 are currently pending in the present application. Claims 1-8 and 10 have been rejected.

The examiner has noted that claim 1 contains the misspelling "alkali methylalkyl sulfate salts." Claim 1 has been amended to remove "alkali methylalkyl sulfate salts." Therefore, no correction is required.

II. Rejections Under 35 U.S.C. § 112 Should Be Withdrawn

Claim 5 has been rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in such a way as to reasonably convey to one skilled in the art that the inventor had possession of the claimed invention. It is alleged that the specification as filed does not disclose that the particle diameters are number average. Applicants have amended claim 5 to remove the limitation "a number average particle diameter of 2000 to 5000 Å." No new matter has been added.

III. Rejection Under 35 U.S.C. § 102 Should Be Withdrawn

Claims 1-8 and 10 have been rejected under 35 U.S.C. §102(b) as being unpatentable in view of Great Britain Patent 994,924 (American Cyanamid Co.). It is alleged that American Cyanamid Co. discloses the specific emulsifiers recited by claim 1 of the present invention at page 3, line 51. Specifically, American Cyanamid Co. discloses that polyethoxy alkylated phenols, and compounds such as dioctyl sodium sulfosuccinate and dihexyl sodium sulfosuccinate may be used. It is also alleged that American Cyanamid Co. discloses bulk polymerization of MSAN in Examples 13, 14 and 15.

Applicants have amended independent claim 1 to remove the recitation of the emulsifiers alkali methylalkyl sulfate salts and sulfonated alkylester salts. Thus, American Cyanamid Co. does not disclose each and every limitation of independent claim 1. As claims 2-8 and 10 depend from claim 1, these dependent claims are also patentable, for at least the same reasons. Therefore, in view of the foregoing, reconsideration and withdrawal of the rejection of claims 1-8 and 10 as anticipated by Great Britain Patent 994,924 (American Cyanamid Co.) is respectfully requested.

IV. Rejection Under 35 U.S.C. § 103 Should Be Withdrawn

Claims 1-8 and 10 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,795,936 (Lin et al.) further in view of Great Britain Patent 994,924 (American Cyanamid Co.). It is alleged that Lin et al. discloses a composition containing a graft copolymer "A" that is identical to the MSAN claimed in applicants' step (ii). The examiner further alleges that Lin et al. does not disclose a specific example of component "D" equivalent to the components of step (i) of the present claimed invention but it would have been obvious to one having ordinary skill in the art to choose a component absent any showing of surprising or unexpected results.

To establish obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *See In re Royka* 490 F.2d 981 (CCPA 1974). As stated above, American Cyanamid Co. fails to teach or suggest all the recitations of independent claim 1. Lin et al. also does not teach or suggest the recitations of claim 1. Thus, Lin et al. in combination with American Cyanamid Co. does not teach or suggest all the limitations of claim 1. As claims 2-8 and 10 depend from claim 1, these dependent claims are also patentable, for at least the same reasons.

Furthermore, to establish obviousness there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine the teachings. The mere fact that references might be modified is not enough to constitute obviousness unless the prior art also suggests the desirability of the modification. Lin et al. discloses the use of potassium oleate as an emulsifier when polymerizing a rubber graft copolymer. Comparative Example 6 described in the present application shows that using potassium oleate as an emulsifier results in deteriorated moisture and heat resistance. Therefore, Lin et al. would lead a person of ordinary skill away from using the emulsifiers of the present application to prepare a thermoplastic transparent resin with enhanced moisture and heat resistance. Consequently, there is no suggestion or motivation to modify or combine the teachings in the references themselves or in the knowledge generally available to one skilled in the art.

The examiner has also stated that applicants have presented no data comparative to the closest prior art to prove the unexpected results of the present invention. However, Comparative Example 5 disclosed in the present application shows that potassium oleate, as used in Lin et al., shows deteriorated latex stability, while Examples using alkylaryl sulfonate, as claimed in the present invention, shows superior stability, even at low pH. Moreover, the Examples disclosed in the present application show that alkylaryl sulfonate used as an emulsifier, enhance moisture and heat resistance, as compared to oleic acid salt, rosin acid salt, etc. Furthermore, the Examples disclosed in the present application show that when the emulsifiers of the present claimed invention are used, moisture and heat resistance is not affected by the amount of emulsifier.

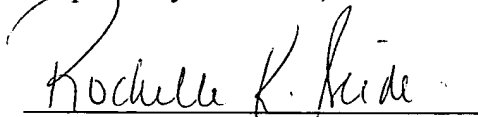
Therefore, in view of the foregoing, reconsideration and withdrawal of the rejection of claims 1-8 and 10 as obvious in view of U.S. Patent 5,795,936 (Lin et al.) further in view of Great Britain Patent 994,924 (American Cyanamid Co.) is respectfully requested.

V. Conclusion

It is believed that no fee is required in connection with this response. However, the Commissioner is hereby authorized to charge payment of any additional fee or credit any overpayment to Deposit Account No. 02-4377.

In view of the foregoing amendments and remarks, allowance of the pending claims is respectfully requested.

Respectfully submitted,

A handwritten signature in cursive script, reading "Rochelle K. Seide", is written over a horizontal line.

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